

REMARKS

The following remarks are prepared in response to the Final Office Action dated September 16, 2011. Claims 1-3 and 6-16 and 21 remain pending in the application after entry of this response. Claims 4-5 have been cancelled. Claims 17-20 have been withdrawn from consideration. Claim 22 has been newly added, and adds no new matter to the application. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Examiner Interview

Applicant thanks Examiner Ryckman for the courtesies extended during the Examiner Interview of December 13, 2011. Applicant provides the following additional remarks for the Examiner's consideration.

Amendments to the Specification

Applicant has amended the specification and respectfully submits no new matter has been added. Applicant respectfully submits support for the amended specification language is found through the originally filed disclosure, for example, in Figures 1-3 and 6-7.

Claim Rejections – 35 U.S.C. § 102

Claims 1-4, 6, 7, 10 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Nakamura* (U.S. Pat. No. 4,958,791). Applicant respectfully traverses.

Applicant has amended independent claim 1 to recite elements not disclosed in *Nakamura*. In particular, Applicant has amended claim 1 to recite “a head end having an aperture structured to allow a first part of said tail end to be drawn through said aperture to position a second part of said tail end within said head end such that said head end encircles said second part of said tail end.”

Support for amended claim 1 is found throughout the originally filed disclosure, for example, in Figures 2 and 3 of the specification. Figure 2 illustrates an aperture, or opening, in

the head end 10b to allow the tail end 10a to be drawn through the head end 10b. Figure 3 illustrates a part of tail end 10a extending through the head end 10b, after it has been drawn through the head end 10b. A part of the tail end 10a remains within the head end 10b and is encircled, or surrounded, by the head end 10b. Thus, support for amended claim 1 is found throughout the originally filed disclosure.

Nakamura discloses tying means which are “applicable not only to electrical equipment and agricultural/horticultural tools of relatively large sizes but also to those of relatively small sizes.” *See col. 1, ln. 67 – col. 2, ln. 3*. The tying means include ends of an annular member 1, with one end having a “parallel arrangement of a receiving hook 2 and an engaging hook 3’, and the other end with a parallel arrangement of an engaging hook 3 and a receiving hook 2’.” *See col. 3, lns. 3-6; see also Figs. 1 and 2*.

When the ends of the annular member 1 are joined, the respective engaging hooks 3, 3’ are not drawn through the respective receiving hooks 2, 2’ such that the receiving hooks 2, 2’ encircle the engaging hooks 3, 3’. *See Fig. 2*. Rather, the engaging hook 3 is merely seated between lower and upper members 22 and 21 forming the receiving hook 2. *See Fig. 2*.

Nakamura discloses that when the ends of the annular member 1 are locked together, then the engaging hooks 3, 3’ abut against adjacent receiving hooks 2’, 2, to “thereby prevent any disengagement of the receiving and engaging hooks due to transverse slipping.” *See col. 3, lns. 42-44*. However, *Nakamura* does not disclose the receiving hooks 2, 2’ encircle the engaging hooks 3, 3’ because the abutting adjacent hooks serve to prevent against transverse slippage. *See col. 4, lns. 11-15*.

Accordingly, *Nakamura* fails to disclose at least one limitation recited in claim 1, including “a head end having an aperture structured to allow a first part of said tail end to be

drawn through said aperture to position a second part of said tail end within said head end such that said head end encircles said second part of said tail end.”

For at least the reasons stated above, Applicant respectfully requests that the rejection of independent claim 1 under 35 U.S.C. § 102(b) be withdrawn. Claim 1 is novel, non-obvious and patentably distinguishable over *Nakamura* and should be allowable.

Regarding dependent claims 2-4, 6, 7, 10 and 21, they each depend from and further limit independent claim 1, which is believed to be patentable, and thus these dependent claims should each also be patentable over *Nakamura*, for at least the reasons stated above in regard to claim 1.

Hence, Applicant respectfully requests the rejection of claims 1-4, 6, 7, 10 and 21 to *Nakamura* under 35 U.S.C. § 102(b) be withdrawn.

Claims 1 and 11-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Kuzmak* (U.S. Pat. No. 4,592,339). Applicant respectfully traverses.

Kuzmak fails to disclose at least one limitation in claim 1, including “a releasable locking means including a tooth and a notch structured to engage said tooth to releasably secure said head end to said tail end.”

Kuzmak discloses a gastric band device 10 having a buckle portion 16 and a guide tab portion 18. *See col. 2, ln. 66 – col. 3, ln. 4; see also Fig. 1.* When the device 10 is positioned on the patient the guide tab portion 18 is “placed through the slot 42” on the buckle portion 16. *See col. 4, lns. 20-24.* However, to secure the device 10 in position, “overlapping sections of the band portion 12 are **sutured to each other.**” *See col. 4, lns. 35-37 (emphasis added).* In fact, the buckle portion “may also be cut at the slot 42 **to remove the buckle**” once the sutures are in place. *See col. 4, lns. 35-39 (emphasis added).* *Kuzmak* fails to disclose releasable locking means including a tooth and a notch.

For at least the reasons stated above, Applicant respectfully requests that the rejection of independent claim 1 under 35 U.S.C. § 102(b) be withdrawn. Claim 1 is novel, non-obvious and patentably distinguishable over *Kuzmak* and should be allowable.

Regarding dependent claims 11-16, they each depend from and further limit independent claim 1, which is believed to be patentable, and thus these dependent claims should each also be patentable over *Kuzmak*, for at least the reasons stated above in regard to claim 1.

Hence, Applicant respectfully requests the rejection of claims 1 and 11-16 to *Kuzmak* under 35 U.S.C. § 102(b) be withdrawn.

Claims 1, 7-9 and 11-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Benchetrit* (WO 01/85071). Applicant respectfully traverses.

Benchetrit fails to disclose at least one limitation in claim 1, including “a releasable locking means including a tooth and a notch structured to engage said tooth to releasably secure said head end to said tail end.”

Benchetrit discloses a gastroplasty band 2 having a first end part 5 and second end part 6. *See col. 3, ln. 50 – col. 3, ln. 53 (referring to U.S. Pat. No. 7,824,422); see also Fig. 1.* The first end part 5 includes a “deformable zone 15” which inflates with fluid and presses “against the walls 4 of the end part 6 of the band” to “immobilize the ring in the closed position.” *See col. 5, lns. 27-32.* Thus, the pressure of the deformable zone 15 against the walls 4 hold the band in position. *See col. 5, lns. 27-32.* In fact, fluid must be released from the band 2 to unlock the gastric band 2. *See col. 6, lns. 65 – col. 7, ln. 2.* *Benchetrit* fails to disclose releasable locking means including a tooth and a notch.

For at least the reasons stated above, Applicant respectfully requests that the rejection of independent claim 1 under 35 U.S.C. § 102(b) be withdrawn. Claim 1 is novel, non-obvious and

patentably distinguishable over *Benchetrit* and should be allowable.

Regarding dependent claims 7-9 and 11-16, they each depend from and further limit independent claim 1, which is believed to be patentable, and thus these dependent claims should each also be patentable over *Benchetrit*, for at least the reasons stated above in regard to claim 1.

Hence, Applicant respectfully requests the rejection of claims 1, 7-9 and 11-16 to *Benchetrit* under 35 U.S.C. § 102(b) be withdrawn.

New Dependent Claim 22

Applicant has additionally added new dependent claim 22. Applicant respectfully submits no new matter has been added, and claim 22 is patentable and in condition for allowance for at least the reasons provided above. Support for the newly added claim can be found throughout the originally filed disclosure. For example, support for claim 22 can be found in Figure 1.

CONCLUSION

The application is deemed to be in condition for allowance and an expedited notice to this effect is respectfully requested.

If there are any questions with regards to this response, or if the Examiner believes that a telephone interview will help further prosecution of the application, the Examiner is invited to contact the undersigned at the listed telephone number.

Very truly yours,

SNELL & WILMER L.L.P.



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